

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CIVIL NO. 1:00CV32

H. DEAN ALLISON, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
This document pertains to:	)	
DAVID K. BROWN,	)	
	)	
vs.	)	<u>ORDER OF</u>
	)	<u>DISMISSAL</u>
DANIEL CONSTRUCTION COMPANY,	)	
INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

**THIS MATTER** is before the Court *sua sponte* to dismiss this action as to the Plaintiff David K. Brown for failure to prosecute.

On July 8, 2008, the Court permitted Plaintiff's counsel to withdraw. **See Order, filed July 8, 2008.** In her motion to withdraw, Plaintiff's counsel advised the Court that no contact had been made with the Plaintiff in excess of four years, and all efforts to locate him had been exhausted. **See Motion to Withdraw as Counsel of Record, filed June 16, 2008, ¶ 3.** Counsel stated family members, co-workers, and friends have advised that they have not had any contact with David Brown "in a number of years." *Id.* ¶¶ 3d, 3e. No

response to the motion to withdraw was received from Mr. Brown and the Court allowed counsel's motion. **See Order, *supra*.**

In the same Order, the Court directed Mr. Brown to take appropriate action to prosecute the claims filed herein and to do so within 30 days of entry of the Order. ***Id. at 2.*** The Clerk mailed a copy of the Order to Mr. Brown at his last known address. To date, no response, either *pro se* or through counsel, has been received from Mr. Brown. Therefore, the Court finds that by Plaintiff's inaction, he has abandoned his claims herein, failed to prosecute this action, and the claims should be summarily dismissed. **See Fed. R. Civ. P. 41(b) (providing that a dismissal for failure to prosecute "operates as an adjudication on the merits"); *Ballard v. Carlson*, 882 F.2d 93, 95 (4<sup>th</sup> Cir. 1989) (sanctioning dismissal under Rule 41(b) for failure to respond to a specific directive of the Court).**

**IT IS, THEREFORE, ORDERED** that the claims of David K. Brown against all Defendants herein are hereby **DISMISSED** in their entirety.

**IT IS FURTHER ORDERED** that the Clerk mail a copy of this Order to David K. Brown at his last known address of 7237 Berkshire Downs Road, Raleigh, North Carolina, 27616.

Signed: August 20, 2008

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

